



BOARD OF COUNTY COMMISSIONERS
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Iovu – CR2022-0032

The Canyon County Board of County Commissioners consider the following:

- 1) Conditional Rezone of Parcel R29303251 from an “A” (Agricultural) zone to a “CR-R-1” (Conditional Rezone - Single-Family Residential) zone. The request includes a development agreement that limits the number of divisions of the parcel and maintains the existing building envelope.

Case No. CR2022-0032, 2505 S Middleton Rd, Nampa (R29303251), a portion of the NE¼ of Section 06, T2N, R2W, BM, Canyon County, Idaho

Summary of the Record

1. The record is comprised of the following:

A. The record includes all testimony, the staff report, exhibits, and documents in Case File CR2022-0032.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-06-01 (Initiation of Proceedings), Canyon County Code §07-06-07 (Conditional Rezones), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and §67-6519 (Application Granting Process).
 - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
 - b. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote the public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. *See* CCZO §07-06-07(1).
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6511.
3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504, 67-6509 & 67-6511.
4. The Board can sustain, modify or reject the Commission’s recommendations. *See* CCZO §07-05-03.
5. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
6. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and

statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

The application (CR2022-0032) was presented at a public hearing before the Canyon County Board of County Commissioners on July 26, 2023. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of County Commissioners decides as follows:

CONDITIONAL REZONE CRITERIA – CCZO §07-06-07(6)

1. Is the proposed conditional rezone generally consistent with the comprehensive plan?

Conclusion: The proposed conditional rezone is generally consistent with the comprehensive plan.

Findings: (1) The subject parcel is designated as Residential in the 2030 Canyon County Comprehensive Plan Future Land Use Map (Attachment C). It is not located within a city impact area.

(2) The request aligns with the following goals and policies of the 2030 Canyon County Comprehensive Plan:

Chapter 1: Property Rights	
G1.01.00	Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.
P1.01.01	No person should be deprived of private property without due process of law.
P1.01.03	Ordinances and land-use decisions should avoid imposing unnecessary conditions or procedures on development approvals.

The applicant is being given due process of law through the hearing process.

Chapter 2: Population	
G2.02.00	Promote housing, business, and service types needed to meet the demand of the future and existing population.
Chapter 4: Land Use and Community Design	
G4.01.00	Support livability and high quality of life as the community changes over time.
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.
P4.02.01	Consider site capability and characteristics when determining the appropriate locations and intensities of various land uses.
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.

P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
P4.06.02	Encourage development design that accommodates topography and promotes the conservation of agricultural land.
G4.07.00	Protect rural qualities that make the County distinct and conserve and enhance the elements contributing to a good quality of life.
P4.07.01	Plan land uses that are compatible with the surrounding community.
G4.08.00	Maintain and enhance the aesthetic beauty of the County.
P4.08.01	Protect and enhance the rural landscape as an essential scenic feature of the County.

The conditional rezone will provide additional housing within an existing subdivision. It will not fragment agricultural land or natural resources. See Findings for Criteria No. 2, 3, and 4.

Chapter 6: Schools	
P6.01.01	Consider the cumulative impact residential development will have on the capacity of schools.

No comment was received from Nampa School District. See Findings for Criteria No. 8.

Chapter 8: Transportation	
P8.01.02	Consider the cumulative impact of rezones and subdivisions on road capacity and traffic congestion when making land-use decisions.

See Findings for Criteria No. 6 and 7.

Chapter 11: Housing	
G11.02.00	Maintain the rural character of Canyon County while providing sufficient housing without fragmenting agricultural land and natural resources.

The conditional rezone will provide additional housing within an existing subdivision. It will not fragment agricultural land or natural resources. See Findings for Criteria No. 4.

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with attachments found in Case No. CR2022-0032.

2. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?

Conclusion: The proposed zone is not more appropriate than the current zoning designation.

Findings: (1) Coyote Cove Subdivision No. 2 was created with large lots intended for rural lifestyles, open space, and small-scale agricultural use. According to testimony from neighbors in the subdivision, many of the property owners use their open space as pasture. The subject parcel is not in an Area of City Impact and is not proposed to be added to one in the near future. This is consistent with the purpose of the “A” (Agricultural) zone as stated in CCZO §07-10-25.

The current zoning is “A” (Agricultural). Pursuant to CCZO §07-10-25 (Purposes of Zones):

“(1) The purposes of the A (Agricultural) Zone are to:

A. Promote the public health, safety, and welfare of the people of the County by encouraging the protection of viable farmland and farming operations;

B. Limit urban density development to Areas of City Impact in accordance with the comprehensive plan;

C. Protect fish, wildlife, and recreation resources, consistent with the purposes of the "Local Land Use Planning Act", Idaho Code title 67, chapter 65;

D. Protect agricultural land uses, and rangeland uses, and wildlife management areas from unreasonable adverse impacts from development; and

E. Provide for the development of schools, churches, and other public and quasi-public uses consistent with the comprehensive plan.”

The proposed zoning is “CR-R-1” (Conditional Rezone – Single-Family Residential). Pursuant to CCZO §07-10-25 (Purposes of Zones):

“(3) The purpose of the R-1 (Single-Family Residential) Zone is to promote and enhance predominantly single-family living areas at a low density standard.”

- (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with attachments found in Case No. CR2022-0032.

3. Is the proposed conditional rezone compatible with surrounding land uses?

Conclusion: As conditioned, the request is compatible with the surrounding land uses.

- Finding:** (1) Based on site photos (Attachment B), the parcel is currently used primarily for residential purposes and does not contain any active farmland. The parcels immediately adjacent to the subject parcel are also used primarily for residential purposes except for the parcels to the east which are used for mineral extraction and farmland.
- (2) The parcel is in Coyote Cove Subdivision #2, which has lot sizes ranging from approximately 1-4 acres (Attachment F). If this rezone and subdivision is approved, the average lot size of the two lots would be 1.46 acres. All lots within Coyote Cove Subdivision #2 are currently larger than this average except Lot 1 Block 1, which is 0.89 acre. Nampa City subdivisions to the north and northeast have lot sizes under a quarter acre (Attachment E). There are 73 subdivisions within one mile of the subject property with an average lot size of 0.36 acres. Within 600 ft, the average lot size is 5.07 acres and the median is 1.99 acres.
- (3) The request would result in potentially adding one additional dwelling. The parcel is currently allowed to add a secondary residence which would add the same number of trips per day. There are no proposed conditions for this case that would prohibit secondary dwellings after the subdivision is completed, but the existing building envelope would constrain the ability to fit two dwellings on either lot.
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits and attachments found in Case No. CR2022-0032.

4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?

Conclusion: The proposed conditional rezone will negatively affect the character of the area.

- Finding:** (1) The area is a mix of rural, agricultural, and residential. The parcel is in Coyote Cove Subdivision #2, which has lot sizes of approximately 1-4 acres (Attachment F). Nampa City subdivisions to the north and northeast have lot sizes under a quarter acre (Attachment E). Lake Lowell is approximately 1,700 ft south of the subject property. A gravel pit is located directly to the east (Attachment G). There are 73 subdivisions within 1 mile of the subject property with an

average lot size of 0.36 acres. Within 600 ft, the average lot size is 5.07 acres and the median is 1.99 acres.

- (2) All county parcels within one mile are zoned “A” (Agricultural) (Attachment D).
- (3) Notice of the public hearing was provided per CCZO §07-05-01. Newspaper notice was published on June 14, 2023. Property owners within 600’ were notified by mail on June 14, 2023. The property was posted on June 23, 2023. One written comment was accepted into record during the Planning & Zoning Commission hearing (Attachment K). The letter is from Timothy Rambo, president of Rambo Sand & Gravel, who is opposed to the request due to the possibility of traffic interfering with the gravel operation. Three public comments from neighbors opposed to the case as well as a statement signed by property owners from case PH2018-6 was submitted prior to the Board of County Commissioners hearing (Attachments L1-L4).
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits and attachments found in Case No. CR2022-0032.

5. Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate proposed conditional rezone?

Conclusion: Adequate facilities and services will be provided to accommodate the request at the time of development.

- Finding:**
- (1) Future development will require a domestic well and septic systems. Future development will be required to meet Idaho Department of Water Resources and Southwest District Health requirements regarding the placement of a well and septic system. Drainage and irrigation will be addressed at the time of subdivision.
 - (2) Based on public testimony from the secretary of Coyote Cove Homeowners’ Association, the proposed lot would not be denied water, but the property owner would have to put in a connection to the community well. If water is not provided for any reason, the property owner would be allowed to irrigate 0.5 acre from the domestic well.
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies and full political noticing were sent on June 13, 2023.
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits and attachments found in Case No. CR2022-0032.

6. Does the proposed conditional rezone require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?

Conclusion: The request does not require public street improvements. No measures are necessary to mitigate traffic impacts.

- Finding:**
- (1) The request is not anticipated to create a significant impact to traffic patterns. This would add one additional dwelling, which would generate approximately 9.52 trips per day according to CCZO 07-10-03 Note 3. The parcel is currently allowed to add a secondary residence which would add the same number of trips per day.
 - (2) There are no proposed conditions for this case that would prohibit secondary dwellings after the subdivision is completed, but the existing building envelope would constrain the ability to fit two dwellings on either lot.
 - (3) No agencies stated they had concerns regarding traffic impacts. The request is not anticipated to cause undue interference with existing or future traffic patterns.

- (4) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies and full political noticing were sent on June 13, 2023.
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits and attachments found in Case No. CR2022-0032.

7. Does legal access to the subject property for the conditional rezone exist or will it exist at time of development?

Conclusion: The property will have legal access at the time of development.

Finding: (1) According to the concept plan (Attachment A), the property will have 60 ft of frontage along S Middleton Rd, a public road. Nampa Highway District provided a copy of their approved land split application indicating that they would require an approach permit (Attachment H). The new approach will be required to meet highway district standards.

(2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies and full political noticing were sent on June 13, 2023.

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits and attachments found in Case No. CR2022-0032.

8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?

Conclusion: Essential services will be provided to accommodate the use. No mitigation is proposed at this time.

Finding: (1) The property will be served by Nampa School District, Nampa Fire Department, and Canyon County Emergency Services. All essential services were notified. Nampa Fire District stated that they will provide the property with emergency services, the development will not have a negative impact on the department, and that they do not oppose the application (Attachment I).

(2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies and full political noticing were sent on June 13, 2023.

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits and attachments found in Case No. CR2022-0032.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **denies** Case # CR2022-0032, a conditional rezone of Parcel R29303251 from an "A" (Agricultural) zone to a "CR-R-1" (Conditional Rezone - Single-Family Residential) zone.

Pursuant to Section 67-6535 of the Idaho Code, the applicant has 14 days from the date of the final decision to seek reconsideration before seeking judicial review.

DATED this _____ day of _____, 2023.

CANYON COUNTY BOARD OF COMMISSIONERS

_____ Motion Carried Unanimously
 _____ Motion Carried/Split Vote Below
 _____ Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
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Commissioner Leslie Van Beek

Commissioner Brad Holton

Commissioner Zach Brooks

Attest: Chris Yamamoto, Clerk

By: _____
Deputy

Date: _____

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